

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BMC, LLC,

Plaintiffs,

v.

ORDER
04-CV-105A

VERLAN FIRE INSURANCE COMPANY,

Defendant.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On August 13, 2005, Magistrate Judge Scott filed a Report and Recommendation, recommending that defendant's motion to dismiss be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendant's motion to dismiss is denied.

The case is referred back to Magistrate Judge Scott for further proceedings.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September 25 , 2005